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Attorney's Docket No.: 07844-471001
Client's Ref. No.: P435

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Number of pages including this page   8

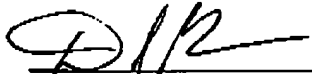|			
Applicant	: Parent et al.	Art Unit	: 2142
Serial No.	: 09/965,117	Examiner	: Michael D. Meucci
Filed	: September 26, 2001		

Title   : Marked Foreign Data Blocks

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attached to this facsimile communication cover sheet is NOTICE OF APPEAL; PRE-APPEAL BRIEF REQUEST FOR REVIEW (form, 1 page); PRE-APPEAL BRIEF REQUEST FOR REVIEW (brief, 5 pages), faxed this 30 day of May, 2006, to the United States Patent and Trademark Office.

Respectfully submitted,

Date: May 30, 2006

Daniel J. Burns
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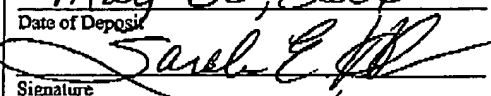Fax: (650) 839-5071

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🐟 FISH & RICHARDSON P.C.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number: 07844-471001	
I hereby certify under 37 CFR § 1.8(a) that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop AF, Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450.		**Application Number** 09/965,117	**Filed** September 26, 2001
May 30, 2006 Date of Deposit		**First Named Inventor** Parent et al.	
Sarah E. Hove Signature *SARAH E. HOVE* Typed or Printed Name of Person Signing Certificate		**Art Unit** 2142	**Examiner** Michael D. Meucci

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
        Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

☒ attorney or agent of record 50,222
(Reg. No.)

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

_____
Signature

Daniel J. Burns
Typed or printed name

(650) 839-5070
Telephone number

May 30, 2006
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below'.

☒ Total of 1 form is submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Parent et al.   Art Unit   : 2142
Serial No. : 09/965,117   Examiner : Michael D. Meucci
Filed   : September 26, 2001
Title   : MARKED FOREIGN DATA BLOCKS

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to the Pre-Appeal Brief Conference Pilot Program, a request for a review of identified matters on appeal is hereby submitted with the Notice of Appeal. This pre-appeal brief is filed specifically in response to legal and factual deficiencies in the final Office Action mailed February 28, 2006. Nonetheless, all rights to address additional matters on appeal in any subsequent appeal brief are hereby reserved.

I.   The Cited Art Does Not Teach or Suggest Selecting a Byte Pattern that Indicates the Presence of a Header Based on a Character Encoding Format of a Foreign Data Block

A foreign data block is embedded in a host data file in a way that allows it to be found and possibly modified by a foreign application. The foreign application can locate embedded foreign data blocks in host data files even when the host data files have formats that the foreign application does not recognize. *See* Specification, p. 1. A system receives a foreign data block to be embedded into a host file. *See* Specification, p. 5 and FIG. 1. The characteristics of the foreign data block are determined including computing the total length and determining the type of encoding of the data block. A header is generated that includes information such as the

characteristics of the foreign data block and a unique identifier that is designed to be

distinguishable from all other data in the host data file. The header is marked by a byte pattern

that identifies the encoding of the foreign data block. *See* Specification, p. 10 and TABLE 3,

which is reproduced below.

Encoding	Byte Pattern
16-bit	0x3C 0x00 0x3F 0x00 0x78 0x00 0x70 0x00 0x61 0x00 0x63 0x00 0x6B 0x00 0x65 0x00 0x74 0x00 0x20 0x00 0x62 0x00 0x65 0x00 0x67 0x00 0x69 0x00 0x6E 0x00 0x3D (0x00)
8-bit or multiple encoding	0x3C 0x3F 0x78 0x70 0x61 0x63 0x6B 0x65 0x74 0x20 0x62 0x65 0x67 0x69 0x6E 0x3D
32-bit	0x3C 0x00 0x00 0x00 0x3F 0x00 0x00 0x00 0x78 0x00 0x00 0x00 0x70 0x00 0x00 0x00 0x61 0x00 0x00 0x00 0x63 0x00 0x00 0x00 0x6B 0x00 0x00 0x00 0x65 0x00 0x00 0x00 0x74 0x00 0x00 0x00 0x20 0x00 0x00 0x00 0x62 0x00 0x00 0x00 0x65 0x00 0x00 0x00 0x67 0x00 0x00 0x00 0x69 0x00 0x00 0x00 0x6E 0x00 0x00 0x00 0x3D

Claim 1 stands rejected as being allegedly unpatentable over Stent (U.S. Pat. No.

5,778,359) in view of Backlund (OOE: A Compound Document Framework). Stent discloses a

system and method for automatically determining a file record format. *See* Abstract. A typical

file is a database file 16, which can include a header 30 that contains information about the

contents of the file. After the header begins the main body 32, which comprises one or more file

records. Each record includes a number of different fields. Each field contains a predetermined

data type. The file 16 ends with a trailer 34. *See* col. 3, lines 49-56.

Stent discloses skipping the file header and analyzing the main body in order to

determine a record format. *See* col. 5, lines 18 23. One way to skip the header is to search at the

beginning of the file for the word "HEADER" and then skip over the portion of the file between

the word "HEADER" and a subsequent carriage return or line feed. *See* col. 5, lines 12 18.

However, Stent does not teach that the word "HEADER" was selected based on the character

encoding format of the foreign data block, as required by claim 1. Moreover, the word

"HEADER" does not specify a byte pattern, which claim 1 requires, because there are different

byte patterns that can represent this word. It follows that Stent does not disclose selection of a byte pattern for generated packing data that indicates the presence of a header based on a determined character format.

The relied upon portions of Backlund do not remedy the deficiencies in Stent. Backlund describes a framework where so-called compound documents can contain embedded objects. *See* p. 2. Backlund discloses that an embedded object is stored in a host document as image data, document data, and source data. *See* p. 3, § Basic Storage. Image data contains data used to render an embedded object. Document data contains internal structures of the embedded object. And source data contains information about which application was used to create the embedded object. Assuming for argument's sake that embedded objects in Backlund are equivalent to foreign data blocks, these portions of Backlund do not teach or suggest generating packing data that describes the characteristics of the foreign data block, including data identifying the beginning and end of the foreign data block. Furthermore, the cited portions of Backlund do not teach or suggest selection of a byte pattern for generated packing data that indicates the presence of a header based on a determined character format, as required by claim 1.

This feature is recited in independent claim 1 in this way: "selecting, based on the character encoding format of the foreign data block, a byte pattern that indicates a presence of a header, and including the byte pattern in the packing data." In view of the clear language of independent claim 1 and the above arguments, the current rejection of independent claim 1 is clearly deficient and should be withdrawn.

Similar reasoning applies to independent claim 21. Claim 21 recites: "selecting, based on the character encoding format, a byte pattern that indicates a presence of the information marking the beginning of the foreign data block; and embed the information and the foreign data block as a foreign data block packet in the host data file." Thus, in view of the above, the current rejection of claim 21 is clearly deficient and should be withdrawn.

Similar reasoning applies to independent claim 22. Claim 22 recites: "selecting, based on the character encoding format, a byte pattern that indicates a presence of the information marking the beginning of the metadata; and embed the information and the metadata as a packet

in the host data file." Thus, in view of the above, the current rejection of claim 22 is clearly deficient and should be withdrawn.

Dependent claims 2-13 and 23-28 should be patentable based on the above arguments and the additional recitations they contain.

II. The Cited Art Does Not Teach or Suggest that When a Byte Pattern Indicating a Header is Found, Determining a Character Encoding Format of the Header

Claim 14 stands rejected as being allegedly unpatentable over Stent in view of Lonnroth (U.S. Pat. No. 6,826,597). Stent does not disclose determining a character encoding format of a header when a byte pattern indicating the presence of the header is found, as required by claim 14. The portions of Stent relied upon by the examiner fail to teach or suggest this feature (col. 5, lines 12-19):

> The next step is to determine whether file 16 contains headers or trailers, step 84. One method of determining if file 16 contains a header is to search the beginning of file 16 for the word "HEADER" immediately after a carriage return, new line or linefeed character. The word "HEADER" will usually be subsequently followed by another carriage return or a linefeed, which indicates the end of the header 30, FIG. 2. The header 30 can then be skipped over.

The relied upon section of Stent above discloses that a file can have a header section which can be demarked with the word "HEADER". There is no mention of determining the character encoding format of the header. In fact, Stent teaches that character encoding is determined before a header is searched for in order to convert the file to ASCII format. See FIG 4A and col. 4, lines 20-31.

Lonnroth discloses a system for a mobile phone 210 to communicate with a gateway computer 202 over a network 212. See col. 3, line 63 – col. 3, line 6, and FIG. 2. The system allows mobile phones to retrieve data from data sources that do not necessarily support the same protocols and formats as the mobile phones. See col. 3, lines 14-19. But the relied upon portions of Lonnroth fail to remedy the deficiencies in Stent. Accordingly, the applicant respectfully

Applicant : Parent et al.
Serial No. : 09/965,117
Filed : September 26, 2001
Page : 5 of 5

Attorney's Docket No.: 07844-471001 / P435

submits that claim 14, and claims 15-16 which depend from 14, are in condition for allowance for at least these reasons.

This feature is recited in independent claim 14 in this way: "scanning byte by byte for a byte pattern that indicates the presence of a header; and when the byte pattern is found, determine a character encoding format of the header." In view of the clear language of independent claim 14 and the above arguments, the current rejection of independent claim 1 is clearly deficient and should be withdrawn.

Dependent claims 15-18 should be patentable based on the above arguments and the additional recitations they contain.

III.   Conclusion and Relief

The rejections of record are clearly improper and without basis and should be withdrawn. Moreover, it is respectfully suggested that all of the claims should be in condition for allowance, and a formal notice of allowance is respectfully requested. Please apply the notice of appeal fee ($500), and any other necessary charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 5/30/2006

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